

**Notice of Allowability**

Application No.

10/687,279

Applicant(s)

MCKAY, KENNETH J.

Examiner

Jon A Szumny

Art Unit

3632

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to October 16, 2003.
2. ☒ The allowed claim(s) is/are 1-15.
3. ☒ The drawings filed on 16 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

This is the first office action for application number 10/687,279, Tie Down Device, filed on October 16, 2003.

***Priority***

Domestic priority of application number 60/419,763 filed on October 21, 2002 is acknowledged.

***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Steven Hoffberg on May 26, 2004.

On page 4, line 22, "Nylon®" has been changed to --nylon--;

On page 7, line 7, "®" has been deleted;

In claim 1, line 4, "greater" has been changed to --adapted to be greater-- and "less" has been changed to --adapted to be less--;

In line 6, "greater" has been changed to --adapted to be greater--;

In line 7, "of less" has been changed to --adapted to be of less--;

In line 12, "less" has been changed to --adapted to be less--;

In claim 11, line 2, "Nylon injection molded from a polymer" has been changed to --an injection molded engineered resin--;

In claim 14, line 5, "extending" has been changed to --adapted to extend--;

In line 7, "extending" has been changed to --and extending--;

In line 12, "slats" has been changed to --the slats--;

In line 14, "slats" has been changed to --the slats--;

Claims 16 and 17 have been cancelled.

***Allowable Subject Matter***

Claims 1-15 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claim 1, the prior art taught many examples of tie down devices for engaging between parallel spaced slats each comprising a) a shaft with first and second ends and an axis along with a length greater than the nominal thickness of the slats and a diameter less than the slat spacing, b) an axial elongated portion at one end of the

Art Unit: 3632

shaft comprising at least one member extending for a distance greater than the slat spacing at right angles from said axis of said shaft length, and having a thickness of less than the slat spacing, c) a body portion, located at the second end of said shaft.

However, the prior art failed to specifically teach the body portion to have a stop surface, an attachment region, and a stabilizer, extending from the stop surface toward the axially elongated portion, being displaced from the axis of the shaft, and having a thickness less than the slat spacing, wherein the attachment region is located on the body on an opposite side with respect to the stabilizer, and offset from the axis of said shaft, wherein the stop surface is oriented with respect to the axially elongated portion such that, when a force is applied to the attachment region along a thickness axis of the slats, the stabilizer is inserted within the spacing between the slats to an extent limited by the stop surface acting on the slats.

With respect to claim 14, the prior art failed to specifically teach the tie down device to include a fulcrum at an end of the shaft opposite the extension and merging into a stop surface and extending from the shaft along an axis parallel to the extension, an attachment portion located axially displaced from a centerline of the shaft, and a stabilizer extending from the stop surface toward the extension on an opposite side of the fulcrum with respect to the attachment portion, at right angles to the fulcrum and at right angles to the shaft, adapted to extend into a space between the slats when a force is applied to the attachment portion and to potentially clear the space between slats when no force is applied.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thompson '937, Higuchi '925, Gunvalson '875, Cummings '409, Beacom '963, Martin '378, Woodward '281, Russell, Jr. '680, Gerrard '470, Lovelady et al. '477, Demaio '974, Bentley '042, Bentley '319, Smith '099, Dysarz '191, Johansen '075 and Solterbeck '911 teach various tie down devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Art Unit: 3632

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
May 26, 2004



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER